

REMARKS

Claims 1-35 are pending in this application. Claims 1, 5, 9, 13, 17, 22, 26, 31, and 35, the independent claims, have been amended. Favorable reconsideration and allowance are respectfully requested.

Claims 1-35 have been rejected under 35 U.S.C. §103(a) as allegedly being obvious from U.S. Patent 6,728,685 (Ahluwalia). This rejection is respectfully traversed.

As recited in independent claim 1, the present invention relates to a method of delivering goods ordered by a plurality of customers. In the method, a plurality of customers place orders for multiple goods from a vendor maintaining a server on a network. For each of the multiple goods in an order placed by a given customer, the vendor server determines whether the good is currently available at a local pick-up point geographically close to the given customer, and treats each such good separately depending on whether the good is currently available at the local pick-up point. (i) In a case where the good is currently available at the local pick-up point, the vendor server ear-marks that good for the given customer, and (ii) in a case where the good is not currently available at the local pick-up point, the vendor server fulfils the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by others from among the plurality of customers who are also geographically close to the local pick-up point.

Independent claim 5 relates to a method of designating local receipt of items ordered from a vendor at a remote location. Independent claim 9 relates to a method of delivering goods ordered by plural customers. Independent claim 13 relates to an apparatus for controlling delivery of goods to plural customers. Independent claims 17 and 26 relate to a system for allowing multiple vendors to consolidate shipping of goods to customers. Independent claim 22 relates to a shopping server on a network that includes plural vendor servers and plural customer client terminals. Independent claim 31 relates to computer

code storable on a computer-readable media and executable on a server, that carries out steps that correspond generally to the elements of claim 13. And independent claim 35 relates to a method of delivering goods ordered by a plurality of customers, at least one customer order being for multiple goods. All of those independent claims recite salient features of claim 1 discussed above, and all specifically recite customers placing orders for multiple goods.

Ahluwalia relates to a Web-based vehicle ordering and tracking system, in which a consumer inputs to a Web site criteria for a desired vehicle. As shown in Fig. 4, the system searches first for vehicles in dealership inventory, then for vehicles in transit, then for vehicles in plant inventory and then for vehicles in a to-be-constructed order bank. If no matches or near matches are found, a customer's order is placed. The consumer is provided real-time information, prior to the placement of an order or purchase by the consumer, regarding the availability and status of a configured product in relation to the product's manufacturing and delivery process or "pipeline" from the manufacturer to a dealership. (See column 2, lines 62-67.)

The present invention, in stark contrast, provides a novel system and method for delivering goods, in which plural customers place orders for multiple goods from a vendor maintaining a server on a network. In this invention, for each of the multiple goods in an order placed by a given customer, the vendor server determines whether the good is currently available at a local pick-up point geographically close to the given customer, and treats each such good separately depending on whether the good is currently available at the local pick-up point. If the good is currently available at the local pick-up point, the vendor server ear-marks that good for the given customer, and if it is not, the vendor server fulfils the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by other customers who are also geographically close to the local pick-up point. Thus, the

present invention provides a methodology for fulfilling orders for multiple goods, in which each good may be treated separately, so that delivery efficiency is optimized.

First, Ahluwalia does not provide a teaching or suggestion of a vendor server determining whether a good is available at a *local pick-up point geographically close* to the given customer. Ahluwalia discusses stages of a product “pipeline,” including scheduled and unscheduled order banks, final assembly, in-plant inventory, in-transit stock, and dealer inventory (see column 3, lines 4-8). However, Ahluwalia merely discusses “dealer inventory” generally, and does not teach or suggest that any determination is being made by a vendor server as to whether a vehicle is available at a local dealer *geographically close* to a given customer. In fact, Ahluwalia specifically defines a “dealer” as follows: “Dealers 330 may also represent *any* sales entity that has an inventory of products for sale or lease to the public or businesses” (see column 8, lines 18-20; emphasis added). Thus, Ahluwalia is merely concerned with finding “any” dealer that has the specified vehicle in its inventory, not a *geographically close* dealer. For example, column 17, lines 32-34 states (emphasis added): “A dealer code tag 1030 contains an identifier that specifies the dealership *that has the vehicle in inventory*”, not a geographically close dealer.

The examiner cites Fig. 5 of Ahluwalia as allegedly disclosing “for each of the multiple goods in an order placed by a given customer, the vendor server determining whether the good is currently available at a local pick-up point geographically close to the given customer.” However, Fig. 5 does not teach or suggest “multiple goods in an order” at all. Instead, Fig. 5 relates to matches or near matches of a customer’s entered “search criteria,” such as vehicle make, model, and color (see column 9, lines 26-29), not multiple vehicles that have been ordered. Moreover, to the extent that Ahluwalia “sorts” its matches, such sorting is not done based on how close a dealer is geographically to the

customer. Rather, such sorting is done based on either (1) how closely the vehicle matches the entered “search criteria,” or (2) by status, for example, in-inventory vehicles are grouped together, in-transit vehicles are grouped together, etc. (See column 9, lines 50-63.) There is not even any teaching or suggestion in Ahluwalia of a vendor server sorting *matches* within dealer inventory based on geographic location of the dealers; rather, the matches in dealer inventory are simply grouped all together. And, as explained, such “matches” in Fig. 5 are not multiple vehicles that have been ordered.

The examiner cites Fig. 4B of Ahluwalia as allegedly disclosing “(i) in a case where the good is currently available at the local pick-up point, the vendor server ear-marking that good for the given customer”. However, column 10, lines 23-26 of Ahluwalia states, in connection with Fig. 4B: “The vehicle delivery schedule may indicate that the vehicle is immediately available if it is currently on the lot of a dealership...” Thus, Ahluwalia considers a vehicle to be “immediately available” if it is currently on a dealership lot. Ahluwalia does not teach or suggest that any determination is being made by a vendor server as to whether a vehicle is currently available at a local dealership lot *geographically close to the customer*. As such, the Ahluwalia system cannot provide the efficiency that the system and method of the current invention provides.

The examiner states, at page 3 of the Office Action: “Ahluwalia teaches determining if a product is available at a local dealership (col. 7, lines 5-15) and if not having the vehicle shipped to the customer selected dealership for sale to the consumer (col. 8, lines 10-30, col. 18, lines 40-50) [sic] specifically mention that the vehicles are combined with other customer orders to the selected dealership.”

Nowhere does Ahluwalia teach or suggest determining if a product is available at a “local” dealership; rather, the cited portion at column 7 of that patent merely discusses searching for the vehicle in general “dealership inventory.”

Furthermore, even if, assuming *arguendo*, that if a product in Ahluwalia is not available the vehicle is “shipped to the customer selected dealership,” that would merely provide a teaching of shipping a vehicle to a *customer selected* dealership, not to a dealership *geographically close to the customer*. Moreover, the terms of claim 1 require that a *vendor server* – not a customer – determines whether the good is currently available at a local pick-up point.

The portion at column 8 of Ahluwalia cited by the examiner merely discusses that “[i]f no match or near match is found, the consumer may place a custom order for the vehicle.” (See also Fig. 4B of that patent.) Nothing in Ahluwalia would teach or suggest that if a good is not currently available at a local pick-up point, a vendor server fulfils the order of a given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by other customers who are also geographically close to the local pick-up point, as recited in claim 1. The examiner states at page 3 of the Office Action that Ahluwalia “specifically mentions that the vehicles are combined with other customer orders to the selected dealership,” but no teaching or suggestion of such combining can be found in Ahluwalia. Instead, Ahluwalia merely states that when no match is found, a consumer places a “custom order”, which would be available “in two months... for example” (see column 10, lines 23-26).

The portion at column 18 of Ahluwalia cited by the examiner states:

Tagged dealer 1121 is a tag for the dealer code of the dealer that has the requested vehicle. Selected dealer 1122 is the tag for the dealer code that the customer has selected from whom to purchase the vehicle.

Therefore, in Ahluwalia, either the *dealer* requests the vehicle, or the *customer* selects the dealer. In the method of claim 1, in stark contrast, a *vendor server* –

not a customer – determines whether a good is currently available at a local pick-up point geographically close to the given customer, and, if so, the vendor server earmarks that good for the given customer. Nothing in Ahluwalia would teach or suggest these features.

At pages 3-4 of the Office Action, the Examiner states:

The examiner takes official notice that it was old and well known in the art at the time of the invention to consolidate shipments from manufacturers to car dealerships. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Ahluwalia the consolidation of orders into one shipment to a dealer, because this has been a notoriously well known means for optimizing the usage of a vehicle transport trailer where numerous vehicles are shipped to a dealer at one time.

However, the terms of claim 1 require that if a good is not currently available at a local pick-up point, a *vendor server* fulfils the order of a given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by other customers who are also geographically close to the local pick-up point, as recited in claim 1. The abstract notion of a “vehicle transport trailer” would not teach or suggest a vendor server performing the recited steps of claim 1.

At page 15 of the Office Action, the Examiner states:

Applicant argues that Ahluwalia does not teach ordering multiple goods and only provides ordering means for a single vehicle. The examiner disagrees and directs the applicant’s attention to (FIG 25B, fleet sales).

However, at most, Ahluwalia discusses “fleet” sales as relating to the purchase of a “fleet” by a *single customer*, and there is no teaching or suggestion in that patent of combining vehicles ordered *by others* into a single shipping order, or treating each vehicle within a “fleet” separately. Specifically, Ahluwalia states that a “fleet order

message 1535 is used primarily to place *an* order encompassing multiple vehicles”, and states that a “FleetContact tag 1563 is used to include data related to *the* contact *or the* purchaser” (see column 22 of that patent), while column 23 refers to “*the* fleet customer”. (Emphasis added.) Thus, there is no teaching or suggestion in Ahluwalia of combining vehicles ordered *by others* into a single shipping order, much less of a vendor server fulfilling the order of a given customer if the vehicle is not currently available at a local pick-up point by causing the good to be shipped to the local pick-up point in a single shipping order in combination with vehicles ordered by others from among a plurality of customers who are also geographically close to the local pick-up point.

At page 15 of the Office Action, the Examiner states:

It is also clear that applicant is only claiming one case condition at a time, either when the good (singular) is available or when it is not available) [sic] are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

According to the terms of claim 1, both so-called “case conditions”, i.e., (i) if the good is currently available at the local pick-up point, *and* (ii) if the good is not currently available at the local pick-up point, are being claimed. Nevertheless, claim 1 has been even further clarified to recite “for each of the multiple goods in an order placed by a given customer, the vendor server determining whether the good is currently available at a local pick-up point geographically close to the given customer, and *treating each such good separately depending on whether the good is currently available at the local pick-up point, as follows*”, i.e., according to each case condition (i) and (ii) . Thus, *both* case conditions are being claimed. As explained above, it is believed that Ahluwalia teaches *neither* case condition, much less both.

The present invention, then, provides a methodology for fulfilling orders for multiple goods, in which each good may be treated separately, so that delivery efficiency is optimized. Ahluwalia does not teach or suggest treating each of multiple goods within an order separately, as recited in claim 1.

Nothing in Ahluwalia would teach or suggest, for each of the multiple goods in an order placed by a given customer, a vendor server determining whether the good is currently available at a local pick-up point geographically close to the given customer, and treating each such good separately depending on whether the good is currently available at the local pick-up point, and (i) in a case where the good is currently available at the local pick-up point, the vendor server ear-marking that good for the given customer, and (ii) in a case where the good is not currently available at the local pick-up point, the vendor server fulfilling the order of the given customer by causing the good to be shipped to the local pick-up point in a single shipping order in combination with goods ordered by others from among the plurality of customers who are also geographically close to the local pick-up point, as recited in claim 1.

Accordingly, claim 1 is believed to be patentable over Ahluwalia.

Independent claims 1, 5, 9, 13, 17, 22, 26, 31, and 35 each recite features which are similar in many relevant respects to those discussed above with respect to claim 1 and therefore are also believed to be patentable over Ahluwalia for at least the reasons discussed above.

Accordingly, Applicants respectfully submit that independent claims 1, 5, 9, 13, 17, 22, 26, 31, and 35 are not rendered obvious by Ahluwalia, and respectfully request the Examiner to remove the Section 103 rejections.

The remaining rejected claims in this application are each dependent from one or another of the independent claims discussed above, and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested and allowance of each are respectfully requested.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Raymond A. DiPerna", written over a horizontal line.

Raymond A. DiPerna
Attorney for Applicants
Registration No. 44,063

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

#559601 v1